

APPEAL BRIEF UNDER 37 C.F.R. § 41.37

TABLE OF CONTENTS

	<u>Page</u>
<u>1. REAL PARTY IN INTEREST</u>	2
<u>2. RELATED APPEALS AND INTERFERENCES</u>	3
<u>3. STATUS OF THE CLAIMS</u>	4
<u>4. STATUS OF AMENDMENTS</u>	5
<u>5. SUMMARY OF CLAIMED SUBJECT MATTER</u>	6
<u>6. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL</u>	9
<u>7. ARGUMENT</u>	10
<u>8. CLAIMS APPENDIX</u>	15
<u>9. EVIDENCE APPENDIX</u>	20
<u>10. RELATED PROCEEDINGS APPENDIX</u>	21

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Ray R. Bellantoni et al. Examiner: Clement B. Graham

Serial No.: 09/978,532 Group Art Unit: 3692

Filed: October 15, 2001 Docket: 884.490US1

For: EXCHANGE OF INFORMATION

APPEAL BRIEF UNDER 37 CFR § 41.37

Mail Stop Appeal Brief- Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

The Appeal Brief is presented in response to the Notice of Panel Decision from Pre-Appeal Brief Review mailed on March 26, 2008, and further in support of the Notice of Appeal to the Board of Patent Appeals and Interferences, filed on November 28, 2007, from the Final Rejection of claims 1-10 and 13-23 of the above-identified application, as set forth in the Final Office Action mailed on August 28, 2007.

The Commissioner of Patents and Trademarks is hereby authorized to charge Deposit Account No. 19-0743 in the amount of \$510.00, which represents the requisite fee set forth in 37 C.F.R. § 41.20(b)(2). The Appellants respectfully request consideration and reversal of the Examiner's rejections of the pending claims.

I. REAL PARTY IN INTEREST

The real party in interest of the above-captioned patent application is the assignee, INTEL CORPORATION, as evidenced by the assignment set forth at Reel 012271, Frame 0340.

2. RELATED APPEALS AND INTERFERENCES

There are no other appeals, interferences, or judicial proceedings known to Appellants, Appellants' legal representative, or the Assignee that are related to, will directly affect, be affected by, or have a bearing on the Board's decision in the instant Appeal.

3. STATUS OF THE CLAIMS

The present application was filed on October 15, 2001 with claims 1-26. A Non-Final Office Action was mailed on June 19, 2006. A second Non-Final Office Action was mailed on January 3, 2007. A Final Office Action (hereinafter “the Final Office Action”) was mailed on August 28, 2007. Claims 11-12 and 24-26 are canceled. Claims 1-10 and 13-23 stand three times rejected and remain pending.

Thus, claims 1-10 and 13-23 are the subject of the present Appeal.

4. STATUS OF AMENDMENTS

No amendments have been made subsequent to the Final Office Action dated August 28, 2007.

5. SUMMARY OF CLAIMED SUBJECT MATTER

This summary is presented in compliance with the requirements of Title 37 C.F.R. §41.37(c)(1)(v), mandating a “concise explanation of the subject matter defined in each of the independent claims involved in the appeal . . .”. Nothing contained in this summary is intended to change the specific language of the claims described, nor is the language of this summary to be construed so as to limit the scope of the claims in any way.

Some embodiments of the invention are related to a computer-implemented method comprising displaying an interface screen (200, FIG. 2) to allow an applicant from a first company to enter a non-disclosure agreement number (210, FIG. 2) corresponding to a non-disclosure agreement; determining whether the non-disclosure agreement number matches a non-disclosure agreement number in authorization data (1005, FIG. 10) as part of a request for access from an applicant; if not, sending a denial email (1110, FIG. 11) to the applicant; if so, determining whether the first company has executed the non-disclosure agreement (1040, FIG. 10); if so, determining whether the applicant is associated with the first company (1105, FIG. 11); if so, displaying an interface screen (300, FIG. 3) comprising terms (305, FIG. 3) of an authorized disclosure letter (165, FIG. 1) and further displaying a choice of accepting the terms or not (310, 315, FIG. 3); determining whether the applicant agrees to the terms (1125, FIG. 11); if the applicant agrees to the terms, displaying an interface screen (600, FIG. 6) to allow the applicant to select one of a plurality of programs (610, 615, FIG. 6), each of which is associated with a corresponding list of company names (605, FIG. 6) authorized to exchange information with the applicant; and responsive to a selection by the applicant of one of the plurality of programs, displaying the corresponding list of company names (605, FIG. 6); responsive to a selection by the applicant of a second company name from the list of company names, providing the applicant with access to information (175, FIG. 1; 800, FIG. 8) belonging to the second company. (See Application, Independent claim 1; FIGs. 1-3, 6, 8, 10, and 11; pg. 5, line 21 through pg. 6, line 8; pg. 8, lines 10-15 and 19-23; pg. 9, lines 15-23; pg. 10, lines 12-15; and pg. 11, lines 1-20).

Some embodiments of the invention are related to an apparatus comprising a controller (160, FIG. 1) to allow participants in a program to exchange information regarding a program when the participants agree to terms (305, FIG. 3) in an authorized disclosure letter (165, FIG. 1) and when the participants are authorized according to authorization data (170, FIG. 1); wherein the authorization data comprises data regarding employees associated with the participants; and wherein the authorization data comprises data regarding non-disclosure agreements executed by the participants. (See Application, Independent claim 9; FIGs. 1 and 3; pg. 3, lines 20-26; pg. 5, lines 15-26; and pg. 11, line 1 through pg. 12, line 22).

Some embodiments of the invention are related to a signal-bearing medium comprising instructions, wherein the instructions when read and executed by a processor comprise displaying an interface screen (200, FIG. 2) that allows a user to enter a non-disclosure agreement number (210, FIG. 2); when the non-disclosure agreement number is valid, displaying terms (305, FIG. 3) of an authorized disclosure letter (165, FIG. 1); and when the user agrees to the terms, providing the user with access to information (175, FIG. 1) belonging to a participant in a program. (See Application, Independent claim 15; FIGs. 1-3; pg. 5, line 21 through pg. 6, line 8; pg. 8, lines 10-15 and 19-23).

Some embodiments of the invention are related to a server (130, FIG. 1) to facilitate exchange of confidential information about a plurality of controlled-communication programs comprising a memory (140, FIG. 1) to store an authorized disclosure letter (165, FIG. 1), authorization data (170, FIG. 1), and a controller (160, FIG. 1) having a plurality of instructions; a display (155, FIG. 1); an input device (150, FIG. 1); and a processor (135, FIG. 1) communicatively coupled to the memory and the display, the processor to execute selected ones of the instructions to display an interface screen (200, FIG. 2) on the display to allow an applicant from a first company to enter into the input device a non-disclosure agreement number (210, FIG. 2) corresponding to a non-disclosure agreement; determine whether the non-disclosure agreement number matches a non-disclosure agreement number in authorization data (1005, FIG. 10) as part of a request for access from an applicant; if so, determine whether the first company has executed the non-disclosure agreement (1040, FIG. 10); if so, determine whether the applicant is associated with the first company (1105, FIG. 11); if so, display an interface screen (300, FIG. 3) on the display comprising terms (305, FIG. 3) of an authorized

disclosure letter (165, FIG. 1) and further displaying a choice of accepting the terms or not (310, 315, FIG. 3); determine whether the applicant agrees to the terms (1125, FIG. 11), using the input device; if the applicant agrees to the terms, display an interface screen (600, FIG. 6) on the display to allow the applicant to select, using the input device, one of a plurality of controlled-communication programs (610, 615, FIG. 6), each of which is associated with a corresponding list of company names (605, FIG. 6) authorized to exchange information with the applicant; responsive to a selection by the applicant, using the input device, of one of the plurality of programs, display the corresponding list of company names on the display; and responsive to a selection by the applicant, using the input device, of a second company name from the list of company names, provide the applicant with access to information (175, FIG. 1; 800, FIG. 8) belonging to the second company. (See Application, Independent claim 23; FIGs. 1-3, 6, 8, 10, and 11; pg. 5, lines 8-11 and 21 through pg. 6, line 8; pg. 7, lines 1-5; pg. 8, lines 10-15 and 19-23; pg. 9, lines 15-23; pg. 10, lines 12-15; and pg. 11, lines 1-20)

This summary does not provide an exhaustive or exclusive view of the present subject matter, and Appellants refer to the appended claims and their legal equivalents for a complete statement of the inventive subject matter

6. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Claims 1-10 and 13-23 were rejected under 35 U.S.C. §102(e) as being anticipated by Eisenhart (U.S. Patent Application Publication 2001/0047276).

7. ARGUMENT

7.1 35 U.S.C. §102(e) REJECTION

7.1.1 The Applicable Law

It is respectfully noted that anticipation under 35 U.S.C. §102 requires the disclosure in a single prior art reference of each element of the claim under consideration. See *Verdegaal Bros. V. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ 2d 1051, 1053 (Fed. Cir. 1987). It is not enough, however, that the prior art reference discloses all the claimed elements in isolation. Rather, “[a]nticipation requires the presence in a single prior reference disclosure of each and every element of the claimed invention, *arranged as in the claim* (emphasis added).” *Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 730 F.2d 1452, 221 USPQ 481, 485 (Fed. Cir. 1984) (citing *Connell v. Sears, Roebuck & Co.*, 722 F.2d 1542, 220 USPQ 193 (Fed. Cir. 1983)). “The *identical invention* must be shown in as complete detail as is contained in the . . . claim (emphasis added).” *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989); MPEP §2131.

7.1.2 The Examiner’s Rejection and Appellants’ Arguments

Claims 1-10 and 13-23 were rejected under 35 U.S.C. §102(e) as being anticipated by Eisenhart (U.S. 2001/0047276). Because the Appellants assert that the Office has not shown that Eisenhart discloses the identical limitations as claimed, the Appellants respectfully traverse this rejection of the claims.

Eisenhart describes a system that “facilitates collaboration between a technology Supplier and a Buyer of a technology asset or a Contributor to a technology project by comparing the member profiles to identify a member whose search requirements match another member's search requirements.” (See Abstract).

Eisenhart fails to disclose all of the elements recited in independent claims 1, 9, 15, and 23.

For example, regarding claim 1, the passage in Eisenhart (Abstract; col. 2-9, paragraphs 0031-0105) referred to by the Examiner fails to disclose, for example, “displaying an interface screen to allow an applicant from a first company to enter a non-disclosure agreement number corresponding to a non-disclosure agreement [emphasis added]”.

Nor does Eisenhart disclose “determining whether the non-disclosure agreement number matches a non-disclosure agreement number in authorization data as part of a request for access from an applicant [emphasis added]”.

Eisenhart also fails to disclose “sending a denial email to the applicant [emphasis added]”.

Nor does Eisenhart disclose “displaying an interface screen to allow the applicant to select one of a plurality of programs, each of which is associated with a corresponding list of company names authorized to exchange information with the applicant [emphasis added]”.

Regarding independent claim 9, Eisenhart fails to disclose, for example, a controller to allow participants in a program to exchange information regarding a program when the participants agree to terms in an authorized disclosure letter and when the participants are authorized according to authorization data; wherein the authorization data comprises data regarding employees associated with the participants; and wherein the authorization data comprises data regarding non-disclosure agreements executed by the participants. Appellants were unable to find any mention of “employees” in Eisenhart. The passage in Eisenhart (Abstract; col. 2-9, paragraphs 0031-0105) referred to by the Examiner does not refer to employees. Nothing in Eisenhart refers to employees.

Regarding independent claim 15, Eisenhart fails to disclose, for example, displaying an interface screen that allows a user to enter a non-disclosure agreement number; when the non-disclosure agreement number is valid, displaying terms of an authorized disclosure letter; and when the user agrees to the terms, providing the user with access to information belonging to a participant in a program.

Regarding independent claim 23, Eisenhart fails to disclose, for example, a memory to store an authorized disclosure letter, authorization data, and a controller having a plurality of instructions; and a processor, wherein the processor is to execute selected ones of the instructions to *inter alia*: display an interface screen on the display to allow an applicant from a first

company to enter into the input device a non-disclosure agreement number corresponding to a non-disclosure agreement; determine whether the non-disclosure agreement number matches a non-disclosure agreement number in authorization data as part of a request for access from an applicant; and display an interface screen on the display comprising terms of an authorized disclosure letter and further displaying a choice of accepting the terms or not. The passage in Eisenhart (Abstract; col. 2-9, paragraphs 0031-0105) referred to by the Examiner includes a description of a contract manager (paragraph 90), which appears to be limited to providing templates for legal documents, but it does not display either the “terms of an authorized disclosure letter” or “a choice of accepting the terms or not”, as recited in Appellants’ claim 23.

For the above reasons, independent claims 1, 9, 15, and 23 should be found to be allowable over Eisenhart, and Appellants respectfully request that the rejection of claims 1, 9, 15, and 23 under 35 U.S.C. §102(e) as anticipated by Eisenhart be withdrawn.

For similar reasons, all of the claims dependent upon claims 1, 9, 15, and 23 should also be found to be allowable over Eisenhart.

7.1.3 The Examiner Has Failed to Fully and Clearly Identify the Allegedly Disclosed Limitations in the Reference

The Examiner is required to fully and clearly state the grounds of rejection¹. The Examiner’s citation of allegedly relevant disclosure within Eisenhart is too general for Appellants to understand the Examiner’s grounds of rejection for the claims.

Throughout the second Non-Final Office Action and the Final Office Action, the Examiner totally failed to cite any specific portions of Eisenhart to support his assertions. The Examiner repeatedly referred to “paragraphs 0031-0105” of Eisenhart, which constitutes an expanse of 75 paragraphs. In fact, in the Final Office Action, the Examiner offered the following supposed “support” for his assertions at least 35 times: “see columns 2-9 paragraphs 0031-0105”².

¹ MPEP 707.07(d).

² Final Office Action, pp. 2-8.

In Appellants' "Amendment and Response" filed March 2, 2007 to the second Non-Final Office Action, Appellants requested that the Examiner specifically point out where each of the limitations of Appellants' claims might be found in Eisenhart³.

However, the Examiner responded only that "it is inherently clear that Appellants' claimed limitations were addressed within the teachings of Eisenhart"⁴ without providing any specific support in the reference.

Accordingly, the Examiner has failed to fully and clearly identify the allegedly relevant limitations of Appellants' claims within the 75 paragraphs of Eisenhart cited by the Examiner.

³ March 2, 2007 "Amendment & Response Under 37 CFR 1.111", page 9, paragraph 5.

⁴ Final Office Action, page 8, paragraph 5.

SUMMARY

For the reasons presented above, the Appellants respectfully submit that the claims were not properly rejected under 35 U.S.C. §102(e), and that Appellants' claims are patentably distinguishable from the subject matter disclosed by the reference. Therefore, it is respectfully requested that the rejections of claims 1-10 and 13-23 be reconsidered and withdrawn. The Appellants respectfully submit that all of the pending claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone the Appellants' attorney, Walter W. Nielsen at (602) 298-8920 to facilitate prosecution of this Application. If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

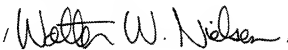
RAY R. BELLANTONI ET AL.

By their Representatives,

SCHWEGMAN, LUNDBERG & WOESSNER, P.A.

P.O. Box 2938

Minneapolis, MN 55402

By /  /

Walter W. Nielsen

Reg. No. 25,539

8. CLAIMS APPENDIX

1. A computer-implemented method, comprising:

displaying an interface screen to allow an applicant from a first company to enter a non-disclosure agreement number corresponding to a non-disclosure agreement;

determining whether the non-disclosure agreement number matches a non-disclosure agreement number in authorization data as part of a request for access from an applicant;

if not, sending a denial email to the applicant;

if so, determining whether the first company has executed the non-disclosure agreement;

if so, determining whether the applicant is associated with the first company;

if so, displaying an interface screen comprising terms of an authorized disclosure letter and further displaying a choice of accepting the terms or not;

determining whether the applicant agrees to the terms;

if the applicant agrees to the terms, displaying an interface screen to allow the applicant to select one of a plurality of programs, each of which is associated with a corresponding list of company names authorized to exchange information with the applicant; and

responsive to a selection by the applicant of one of the plurality of programs, displaying the corresponding list of company names;

responsive to a selection by the applicant of a second company name from the list of company names, providing the applicant with access to information belonging to the second company.

2. The method of claim 1, wherein the information comprises confidential information belonging to the second company.

3. The method of claim 1, further comprising:
determining whether the first company is authorized to a program.
4. The method of claim 3, wherein the second company is authorized to the program.
5. The method of claim 3, wherein the information is associated with the program.
6. The method of claim 3, wherein the program comprises a joint-development program in which the first and second companies are participants.
7. The method of claim 1, further comprising:
determining whether an owner of a program gives approval for the first company to participate in the program.
8. The method of claim 1, further comprising:
determining whether a field representative gives approval for the first company to participate in a program.
9. An apparatus, comprising:
a controller to allow participants in a program to exchange information regarding a program when the participants agree to terms in an authorized disclosure letter and when the participants are authorized according to authorization data;
wherein the authorization data comprises data regarding employees associated with the participants; and
wherein the authorization data comprises data regarding non-disclosure agreements executed by the participants.
10. The apparatus of claim 9, wherein the authorization data comprises data regarding which companies are authorized to the program.

13. The apparatus of claim 9, wherein the program comprises a joint-development program in which the participants participate.

14. The apparatus of claim 9, wherein the information comprises confidential information belonging to the respective participants.

15. A signal-bearing medium comprising instructions, wherein the instructions when read and executed by a processor comprise:

displaying an interface screen that allows a user to enter a non-disclosure agreement number;

when the non-disclosure agreement number is valid, displaying terms of an authorized disclosure letter; and

when the user agrees to the terms, providing the user with access to information belonging to a participant in a program.

16. The signal-bearing medium of claim 15, wherein the instructions further comprise:

providing an access control interface, wherein the access control interface allows the participant to control access to the information.

17. The signal-bearing medium of claim 15, wherein the instructions further comprise:

providing a request access interface, wherein the request access interface allows the user to request access to the information.

18. The signal-bearing medium of claim 15, wherein the instructions further comprise:

providing a display of companies who are participants in the program.

19. The signal-bearing medium of claim 15, wherein the instructions further comprise:

providing a display of companies authorized to exchange information with the user on a per-program basis.

-
20. The signal-bearing medium of claim 15, wherein the instructions further comprise:
providing a display of contact information for the participant in the program.
21. The signal-bearing medium of claim 15, wherein the instructions further comprise:
managing the information.
22. The signal-bearing medium of claim 21, wherein managing the information further comprises
at least one of adding, viewing, deleting, and updating the information.
23. A server to facilitate exchange of confidential information about a plurality of controlled-communication programs, comprising:
a memory to store an authorized disclosure letter, authorization data, and a controller
having a plurality of instructions;
a display;
an input device; and
a processor communicatively coupled to the memory and the display, the processor to
execute selected ones of the instructions to:
display an interface screen on the display to allow an applicant from a first
company to enter into the input device a non-disclosure agreement number corresponding
to a non-disclosure agreement;
determine whether the non-disclosure agreement number matches a non-
disclosure agreement number in authorization data as part of a request for access from an
applicant;
if so, determine whether the first company has executed the non-disclosure
agreement;
if so, determine whether the applicant is associated with the first
company;
if so, display an interface screen on the display comprising
terms of an authorized disclosure letter and further displaying a
choice of accepting the terms or not;

determine whether the applicant agrees to the terms, using the input device;

if the applicant agrees to the terms, display an interface screen on the display to allow the applicant to select, using the input device, one of a plurality of controlled-communication programs, each of which is associated with a corresponding list of company names authorized to exchange information with the applicant;

responsive to a selection by the applicant, using the input device, of one of the plurality of programs, display the corresponding list of company names on the display; and

responsive to a selection by the applicant, using the input device, of a second company name from the list of company names, provide the applicant with access to information belonging to the second company.

9. EVIDENCE APPENDIX

None.

10. RELATED PROCEEDINGS APPENDIX

None.